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**Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
097073,029	05/05/98	MORTON	7663

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PMC2/0317

EXAMINER  
TRAN A.F.

ART UNIT	PAPER NUMBER
3635	3

DATE MAILED: 03/17/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/073,029

Applicant(s)  
Morton et al.

Examiner  
Phi Dieu Tran A

Group Art Unit  
3635



☒ Responsive to communication(s) filed on Jun 1, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-20 is/are pending in the application.

Of the above, claim(s) 8, 16, and 17 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-7, 9-11, 13-15, 18, and 19 is/are rejected.

☒ Claim(s) 12 and 20 is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2

☒ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## **DETAILED ACTION**

### ***Election/Restriction***

1. This application contains claims directed to the following patentably distinct species of the claimed invention: figures 1-4, figure 5.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 9 are generic.

Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the

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examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with Alan F. Meckstroth on 3/9/99 a provisional election was made without traverse to prosecute the invention of figures 1-4, claim 1-7, 9-15, 18-20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 8, 16-17 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1, 7, 9-10, 15, and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 line 9 "said channels" is lacking antecedent basis.

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Claim 7 and 15 "converge" is unclear in meaning.

Claim 9, building wall is not claimed and thus the statement "...a channel disposed outwardly from the building wall..." is indefinite.

Claim 19 line 13 "the same as said width of said building wall" is indefinite. Building wall is not a claimed structure and thus there is no structure's width to compare the spacing between nailing flanges and a plane defined by the interior said traverse walls with.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-2, 7 are rejected under 35 U.S.C. 102(b) as being anticipated by France (2537199).

France ('199) figure 4 shows a frame having elongated tubular sill member connecting a pair of elongated tubular jamb members, each of said sill and jamb members including spaced inner (104), and outer walls(5), longitudinally extending transverse walls (A, B, C), an exterior portion(E) projecting outwardly from said inner wall and cooperating with an adjacent said transverse wall to define a channel, said channel being laterally inwardly of said outer walls of sill

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and jamb members, a laterally spaced wall (9) projecting generally perpendicular outwardly from said adjacent transverse wall to form a continuation of said inner wall of said sill member, a flange wall projecting laterally outwardly from said laterally spaced walls and cooperating with said adjacent transverse wall(A) to define said channel.

For claim 7, figure 4 shows exterior portion (Q) with double flange cooperating with transverse wall to define said channel and said inner and outer walls converging toward said channel.

8. Claims 3 and 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Dallaire et al.

Dallaire (figure 2A) shows a frame having elongated tubular sill member and jamb members with inner wall (A), outer wall (B), transverse walls (D), an exterior portion (E) projecting outwardly and cooperating with adjacent transverse wall to define a channel(F), said channel being inwardly of said outer walls of said sill and jamb members, a first wall (G) projecting outwardly from said adjacent transverse wall (D), an exterior trim wall (J) projecting laterally inwardly from said first wall, a flange wall (I) projecting laterally outwardly from said first wall and said trim wall, said flange cooperating with trim and first wall and transverse wall to define said channel(F), and a lower end of said trim wall mating with said inner wall of said sill member.

For claim 5-6, Dallaire shows guide rails (22) and exterior trim wall (J).

9. Claims 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Slessor.

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Slessor (figure 1) shows a frame having tubular sill member connecting a pair of elongated tubular jamb members, said member having a spaced inner and outer walls (A, B), longitudinally extending transverse wall (D), an exterior portion (E) projecting outwardly from said inner wall and cooperating with said transverse wall to define a channel (F), said channel being inwardly of said outer wall, an accessory groove (G), an extruded interior trim strip ((figure 5, 51) having an intermediate leg portion (H) projecting into each said groove of said sill and jamb members.

For claims 5-6, figure 2 shows guide (11, 13) and exterior trim wall (17).

10. Claims 9-11, 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Huelsekopf.

Huelsekopf (1-3) shows a frame with elongated tubular sill member and a pair of elongated tubular jamb members, said sill and jamb members being connected by welding/fusing (col. 3 lines 20-30) at mitered corners, inner wall (A), outer wall (B), longitudinally extending transverse walls (E), an exterior portion (F) projecting outwardly from a plane defined by said nailing flanges, said exterior portion together with said transverse wall defining a channel, said channel being inwardly of said outer walls, said exterior portion having laterally spaced wall (G) projecting generally perpendicular outwardly from said adjacent transverse wall to form a continuation of said inner wall of said sill member, a double flange (H) projecting laterally outwardly from said laterally spaced walls and defining the said channel.

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For claim 11, Huelsekopf shows a first wall (J), trim wall (K), double wall flange (H) cooperating with said walls and adjacent transverse wall to define said channel.

For claims 13-14, each of said jamb members having integrally extruded guide wall (50) projecting inwardly from the corresponding said inner wall and defining a guideway for a movable sash frame, an exterior trim wall (O) having lower end mating with said inner wall of said sill member.

11. Claims 15 and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Scott et al.

12. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Dallaire et al.

Dallaire (figure 2A) shows a frame having elongated tubular sill member and jamb members with inner wall (A), outer wall (B), transverse walls (D), an exterior portion (E) projecting outwardly and cooperating with adjacent transverse wall to define a channel(F), said channel being inwardly of said outer walls of said sill and jamb members, a first wall (G) projecting outwardly from said adjacent transverse wall (D), an exterior trim wall (J) projecting laterally inwardly from said first wall, a flange wall (I) projecting laterally outwardly from said first wall and said trim wall, said flange cooperating with trim and first wall and transverse wall to define said channel(F), and a lower end of said trim wall mating with said inner wall of said sill member, groove (R) including integrally extruded walls for receiving a frangible rigid flange for receiving the screen unit (56) .

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*Allowable Subject Matter*

13. Claims 12 and 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

*Conclusion*

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different window designs.

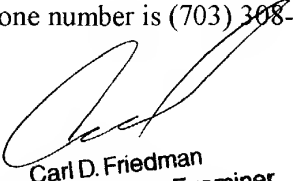
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi Dieu Tran A whose telephone number is (703) 306-9136. The examiner can normally be reached on Monday to Thursday from 8:00 to 5:00. The examiner can also be reached on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached on (703) 308-0839. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Phi Dieu Tran A

3/12/99

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600